

**SUPREME COURT MINUTES
MONDAY, MARCH 16, 2009
SAN FRANCISCO, CALIFORNIA**

S151561 A111891 First Appellate District, Div. 3 **PEOPLE v. VILLA (AVELINO CEJA)**

Opinion filed: Judgment affirmed in full

Opinion by: Werdegar, J.

-----joined by: George, C. J., Kennard, Baxter, Chin, Moreno, and Corrigan, JJ.

S153183 H029324 Sixth Appellate District **PEOPLE v. KIM (HYUNG JOON)**

Opinion filed: Judgment affirmed in full

The United States Congress has plenary power over matters of immigration and naturalization (U.S. Const. art. I, § 8, cl. 4), including deportation, and judicial power regarding immigration and naturalization is extremely limited (*Fiallo v. Bell* (1977) 430 U.S. 787, 792). “In the exercise of its broad power over naturalization and immigration, Congress regularly makes rules that would be unacceptable if applied to citizens.” (*Mathews v. Diaz* (1976) 426 U.S. 67, 79-80.) Because of federal immigration laws concerning the commission of certain types of crimes by resident aliens, defendant is facing the possibly permanent separation from his family, his friends, and the only home he has ever known. But despite this harsh consequence flowing from his 1997 conviction for petty theft with a prior theft-related conviction (following his conviction for the tool shed burglary in 1996), we conclude that at this late date, he is procedurally barred from obtaining relief by way of *coram nobis* because his presentation of claims is untimely, he had other legal remedies, and he presented his legal claims piecemeal. We also conclude that defendant has not stated a case for relief on the merits because he alleges no mistake of fact which, had it been known at the time of his plea, would have prevented rendition of the judgment. Accordingly, the trial court abused its discretion in granting relief. Because the Court of Appeal below correctly reversed the trial court’s decision to issue a writ of error *coram nobis*, we affirm the judgment.

Opinion by: Werdegar, J.

-----joined by: George, C. J., Kennard, Baxter, Chin, Moreno, and Corrigan, JJ.

S169313 H032438 Sixth Appellate District

**HERTZ CORPORATION v.
WORKERS'
COMPENSATION APPEALS
BOARD/(AGUILAR)**

The time for granting or denying review in the above-entitled matter is hereby extended to April 21, 2009.

S165906 B204354 Second Appellate District, Div. 5

**HAWORTH (RANDAL D.) v.
S.C. (OSSAKOW)**

Extension of time granted

On application of real party in interest and good cause appearing, it is ordered that the time to serve and file the answer brief on the merits and response to amicus curiae brief is extended to April 16, 2009.

S079925

**PEOPLE v. MORA (JOSEPH
ADAM) & RANGEL (RUBEN)**

Order filed

Due to clerical error, the order filed in the above matter on March 11, 2009, is amended to read as follows:

Good cause appearing, and based upon Supervising Deputy State Public Defender Peter R. Silten's representation that he anticipates filing appellant Joseph Adam Mora's opening brief by mid-July 2009, counsel's request for an extension of time in which to file that brief is granted to May 12, 2009. After that date, only one further extension totaling about 60 days is contemplated.

S089478

**PEOPLE v. MAI (HUNG
THANH)**

Order filed

The order filed on March 11, 2009, is amended to read, in its entirety;

"To assist the court in ruling on appellant Hung Thanh Mai's April 4, 2008 'Motion to unseal records or for a remand to the superior court to hold a hearing on whether the information contained therein is confidential and privileged or should otherwise remain sealed,' the Attorney General is requested to solicit from the Federal Bureau of Investigation, and file with this court, a confidential declaration identifying *by page and line number* the information in the March 28, 1997, sealed transcript the Federal Bureau of Investigation claims falls within either Evidence Code section 1040 or section 1042.

Any declaration must be filed on or before April 13, 2009."

S110791**JONES (ERNEST DEWAYNE)
ON H.C.**

Order filed

The order filed on March 11, 2009, is amended to read, in its entirety;

“The petition for writ of habeas corpus, filed October 21, 2002, is denied.

All claims are denied on the merits.

To the extent they were raised and rejected on appeal, and except insofar as they allege ineffective assistance of counsel, paragraph 2 of Claim Q, and Claims B, C, M, and U are barred by *In re Waltreus* (1965) 62 Cal.2d 218, 225.

To the extent they were not raised on appeal, and except insofar as they allege ineffective assistance of counsel, paragraph 1 of Claim G, paragraphs 3 and 4 of Claim H, Claim I (with the exception of paragraph 5, subdivision (c)), Claim Q (with the exception of paragraph 2), and all of Claims C, K, L, M, P, R, and U are barred by *In re Harris* (1993) 5 Cal.4th 813, 825 & fn. 3, 826-829, and *In re Dixon* (1953) 41 Cal.2d 756, 759.

Except to the extent they allege ineffective assistance of trial counsel, paragraphs 1 and 2 of Claim H, paragraph 5(c) of Claim I, and Claims N and Y are denied because petitioner failed to raise them in the trial court. (*In re Seaton* (2004) 34 Cal.4th 193.)

To the extent Claim K alleges insufficiency of the evidence, it is not cognizable on habeas corpus. (*In re Lindley* (1947) 29 Cal.2d 709, 723.)

Justice Werdegarr would not hold that any of petitioner’s claims are barred under *In re Seaton* (2004) 34 Cal.4th 193, 201.”

S154847 H028798 Sixth Appellate District**PEOPLE v. NGUYEN (VINCE
VINTHUONG)**

Order filed

Appellant’s request to reschedule oral argument from April 2009 to a later date, filed March 13, 2009, is denied.